

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

LABORERS' PENSION TRUST FUND -
DETROIT AND VICINITY, et al.,

Plaintiffs, CIVIL CASE NO. 03-40240

v.

DAVID LANGE, d/b/a ABLE CONCRETE
WALL, INC., et al.,

HONORABLE PAUL V. GADOLA
U.S. DISTRICT COURT

Defendants.

ORDER ACCEPTING REPORT AND RECOMMENDATION

Before the Court are the parties' cross-motions for summary judgment and the Report and Recommendation of the Honorable Paul J. Komives, United States Magistrate Judge. The Magistrate Judge filed the Report and Recommendation on February 8, 2006 and notified all the parties that any objections must be filed within ten days of service. On February 10, 2006, in an order granting a petition for Defendants' counsel to withdraw, this Court gave Defendants an additional 30 days to retain new counsel and to file objections to the Report and Recommendation. The extended 30-day deadline has elapsed with no objections being filed. Therefore, the Magistrate Judge's Report and Recommendation is unopposed.

The Court's standard of review for a Magistrate Judge's Report and Recommendation depends upon whether a party files objections. If a party does not object to the Report and Recommendation, the Court does not need to conduct a review by any standard. *See Lardie v. Birkett*, 221 F. Supp. 2d 806, 807 (E.D. Mich. 2002) (Gadola, J.). As the Supreme Court observed,

“[i]t does not appear that Congress intended to require district court review of a magistrate’s factual or legal conclusions, under a de novo or any other standard, when neither party objects to those findings.” *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Since neither party has filed objections to the Report and Recommendation, the Court need not conduct a review.

ACCORDINGLY, IT IS HEREBY ORDERED that the Report and Recommendation [docket entry 22] is **ACCEPTED and ADOPTED** as the opinion of this Court.

IT IS FURTHER ORDERED that, with respect to Count I of the Complaint, Plaintiffs’ motion for summary judgment [docket entry 15] is **GRANTED** and Defendants’ motion for partial summary judgment [docket entry 14] is **DENIED**.

IT IS FURTHER ORDERED that, with respect to Count II of the Complaint, Plaintiffs’ motion for summary judgment [docket entry 15] is **DENIED**.

IT IS FURTHER ORDERED that, with respect to the award of attorneys’ fees, Plaintiffs’ motion for summary judgment [docket entry 15] is **DENIED WITHOUT PREJUDICE**, as Plaintiffs retain the right to seek attorneys’ fees through a properly filed motion under Fed. R. Civ. P. 54(d)(2).

SO ORDERED.

Dated: March 27, 2006

s/Paul V. Gadola

HONORABLE PAUL V. GADOLA
UNITED STATES DISTRICT JUDGE

Certificate of Service

I hereby certify that on March 28, 2006, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send notification of such filing to the following:

George H. Kruszewski, and I hereby certify that I have mailed by United States Postal Service the paper to the following non-ECF participants: David Lange.

s/Ruth A. Brissaud

Ruth A. Brissaud, Case Manager
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